

Oethen, P.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
SEAN BEST,

Plaintiff,

-against-

CITY OF NEW YORK, OMH/PHS, and CORIZON
HEALTH SERVICES,

Defendants.
-----X

**STIPULATION AND ORDER
OF SETTLEMENT AND
DISMISSAL WITH
PREJUDICE**

13-CV-0163 (JPO)

WHEREAS, plaintiff Sean Best commenced this action by filing a Complaint in the United States District Court for the Southern District of New York on or about January 2, 2013, as amended and filed on or about July 23, 2014 ("Amended Complaint"), April 28, 2014 ("Second Amended Complaint"), March 18, 2015 ("Third Amended Complaint"), and May 29, 2015 ("Fourth Amended Complaint"), alleging that defendants violated his federal civil rights and his rights under state law;

WHEREAS, defendants City of New York, OMH/PHS, and Corizon Health Services have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, plaintiff and defendants (collectively, "the Parties") now desire to resolve the issues raised in this litigation without further proceedings and without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the Parties, through the undersigned, as follows:

1. The above-referenced action is hereby dismissed, with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.

2. The City of New York hereby agrees to pay plaintiff the sum of EIGHT THOUSAND DOLLARS (\$8,000.00) in full satisfaction of all claims, including claims for damages, costs, expenses, and attorneys' fees. In consideration of the payment of this sum, plaintiff agrees to dismiss and discontinue, with prejudice, all claims against the defendants and to release defendants City of New York, OMH/PHS, Corizon Health Services, and their successors or assigns; as well as the New York City Department of Correction ("DOC") and the New York City Department of Health and Mental Hygiene ("DOHMH"), their successors or assigns, and all past and present officials, employees, representatives, and agents of the City of New York, DOC, and/or DOHMH from any and all liability, claims, and/or rights of action, including all state law claims, from the beginning of the world to the date of the Release in this action, whether known or unknown, that plaintiff raised or could have raised in this action, including claims for costs, expenses, and attorneys' fees, except as set forth in Paragraphs 3 and 4, below.

3. Plaintiff has agreed to settle a separate case he commenced in this Court, entitled Best v. New York City Department of Correction, et al., 12 Civ. 7028 (KMK). The claims that were or could have been asserted in that action will be dismissed and discontinued, and the defendants therein will be released from liability, in a separate stipulation and order of settlement and release.

4. Plaintiff specifically reserves the right to bring an action for false arrest and/or false imprisonment in the event that his *habeas corpus* petition, currently pending before the Court under docket number 15 Civ. 4073, is successful.

5. Plaintiff shall execute and deliver to defendants' undersigned attorney all documents necessary to effect this settlement, including, without limitation, an Affidavit

Concerning Liens, a Substitute W-9 form, and a release based on the terms of paragraph “2” above. The payment set forth above is subject to and conditioned on delivery of all necessary documents to defendants’ undersigned attorney.

6. Nothing contained herein shall be deemed to be an admission by any of the defendants, the City of New York, DOC, DOHMH, or any officer or employee thereof, or any of their successor or assigns, or their officers, employees, representatives, or agents, of any of plaintiff’s allegations, nor an admission by defendants, the City of New York, DOC, DOHMH, or any officer, employee, representative, or agent thereof, or any of their successor or assigns, that they have in any manner or way violated plaintiff’s rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules, or regulations of the United States, the State of New York, or the City of New York, or in any other rule, regulation or bylaw of any department, agency, or subdivision of the City of New York, including but not limited to the DOC or DOHMH.

7. This Stipulation and Order of Settlement and Dismissal with Prejudice (the “Stipulation and Order”) shall not be admissible in, nor is it related to, any other litigation or settlement negotiation, except for enforcement of the provisions contained herein.

8. Nothing contained in this Stipulation and Order shall be deemed to constitute a policy or practice of the City of New York or any of its agencies.

9. Facsimile and/or photocopied signatures on this Stipulation and Order shall have the same effect as original signatures.

10. This Stipulation and Order contains all of the terms and conditions agreed upon by the Parties, and no oral agreement entered into at any time, nor any written agreement entered into prior to the execution of this Stipulation and Order, regarding the subject matter of the instant action shall be deemed to exist, to bind the Parties, or to vary the terms and conditions contained in this Stipulation and Order.

Dated: New York, New York
Aug. 11, 2015

SULLIVAN & WORCESTER LLP
Attorneys for Plaintiff
1633 Broadway, 32nd Floor
New York, NY 10019
(212) 660-3000
sbriley@sandw.com

By:



Siobhan Briley, Esq.

ZACHARY W. CARTER
Corporation Counsel for the City of New York
Attorney for Defendants
100 Church Street, Room 2-113
New York, NY 10007
(212) 356-0896
otuffaha@law.nyc.gov

By:



Omar H. Tuffaha
Assistant Corporation Counsel

SO ORDERED:



J. PAUL OETKEN
United States District Judge

Sept. 21, 2015